



MONTGOMERY COUNTY ETHICS COMMISSION
ADVISORY OPINION
08-02-004

Absent a waiver, an employee cannot be employed by (or own more than one percent of) any business that negotiates or contracts with the County agency with which the employee is affiliated. A supervisor¹ in the Recreation Department asks whether the Department can contract with some of its seasonal employees. The Commission concludes that the Department can enter into employment contracts directly with its seasonal employees, but it may not contract with a business if their (seasonal) employees are employed by or own more than one percent of that business.

The Recreation Department employs a number of seasonal employees in its “Recreational Assistant” occupational series. The Commission understands that seasonal employees are a class of non-merit employee, employed by a department on a short-term basis for up to 1040 hours/year. They are, nonetheless, “public employees” within the meaning of the ethics law. § 19A-4(m). The Recreation Department wishes to enter into employment contracts with some of these seasonal employees.

Absent a waiver, an employee cannot be employed by (or own more than one percent of) any business² that negotiates or contracts with the County agency with which the employee is affiliated. But the Department will contract directly with these employees and not with any business. Thus, the employees do not require a waiver.

March 10, 2008

Date

Antar C. Johnson
Chair

¹ The employees’ supervisor asked for this advisory opinion. A supervisor may seek an advisory opinion for a subordinate under § 19A-7(a).

² A business is “any for-profit or non-profit enterprise, including a corporation, general or limited partnership, sole proprietorship, joint venture, association, firm, institute, trust, or foundation. § 19A-4(b).